

1 Q. So, other than whatever communications
2 occurred in the context of that letter, you are
3 unaware of other lease negotiations?

4 A. That's correct.

5 Q. Or preliminary lease negotiations?

6 A. That's correct.

7 MR. HOLT: I would like to ask the
8 Court Reporter to mark a document as deposition
9 exhibit three. It's a four-page document stamped
10 on the front, duplicate.

11 And I will give a copy to counsel for
12 Glendale.

13 MR. COHEN: Thanks. This is deposition
14 exhibit three?

15 MR. HOLT: Exhibit three.

16 (Whereupon, the Court Reporter marked
17 for identification as Deposition Exhibit March
18 three, a letter of December 20, 1991.)

19 BY MR. HOLT:

20 Q. The document in the left-hand-side
21 corner has a stamp, 80006, on the first page, and
22 there are stamps -- sequential numbers through the
23 next four pages. Again, the bottom left-hand
24 corner.

25 If you would turn to page three of the

1 document, which has the date stamped, 80003. If
2 you would refer to the fourth paragraph.

3 I'm sorry, make that the third
4 paragraph.

5 MR. SHOOK: Also to clarify something,
6 I believe the date that you are referring to is
7 80008.

8 MR. HOLT: I'm sorry, my mistake. My
9 copy isn't very clear. It's 80008.

10 If you turn to the third paragraph, the
11 fifth line, it begins with the word, it. It reads:
12 It has entered into lease negotiations with
13 representatives of the owners of the antenna site
14 specified in the applications, although those
15 negotiations have not been consummated.

16 Again referring to the period, July,
17 1990, through December, 1991, would you please
18 state for the record your reaction, if any, to the
19 sentence I have just read as it relates to the
20 hotel?

21 A. I have no recall of ever entering any
22 lease negotiations.

23 Q. Do you consider that statement to be
24 incorrect?

25 A. The way it's stated, to the best of my

1 knowledge it would stand incorrect, yes.

2 MR. HOLT: I would like to ask the
3 Court Reporter to mark a document as deposition
4 exhibit number four. Let the record reflect I'm
5 handing a copy to -- I'll start with the Court
6 Reporter, a copy to counsel for Glendale.

7 MR. COHEN: Is it four?

8 MR. HOLT: Yes. A copy to counsel for
9 the witness and a copy to the witness.

10 (Whereupon, the Court Reporter marked
11 for identification as Deposition Exhibit March
12 four, a document.)

13 BY MR. HOLT:

14 Q. This is a three-page document. At the
15 top it's identified as a declaration. And on the
16 third page it's dated June 3rd, 1993, and there is
17 a signature which states it was signed by the
18 person called David A. Gardner.

19 If I can refer your attention to the
20 third page of the declaration -- I'm sorry, the
21 second page of the declaration.

22 Please forgive me, look at the first
23 page of the declaration.

24 The fourth paragraph beginning with the
25 words: In the early fall.

1 If you read down five lines, beginning
2 with the sentence: I called; would you please
3 read: I called Ready Mixed Concrete Company, the
4 owner of the Lancaster site, and the Quality Inn,
5 the owner of the Lebanon site.

6 I was informed by representatives of
7 both companies that they were still willing to
8 negotiate an agreement to make their respective
9 properties available as sites for LPTV stations.

10 I generally discussed possible lease
11 terms with both individuals.

12 Focusing your attention to the first
13 sentence of that phrase I just read, would you
14 please state your reaction for the record, if any,
15 as to whether you received -- Do you recall
16 receiving a call from a representative of Raystay?

17 A. Number one, I'm not the owner of the
18 Lebanon site.

19 Q. As general manager of the Quality Inn,
20 do you recall receiving any call from David A.
21 Gardner?

22 A. In 1991, as I have stated numerous
23 times before this afternoon -- or morning -- No, I
24 have no recall.

25 Q. Do you recall ever being informed by

1 David Gardner that -- I'm sorry, do you ever recall --
2 Focusing your attention on the sentence, I was
3 informed by -- Please forgive me.

4 MR. COHEN: Don't worry about it,
5 Chris. It happens to everybody. Don't let it
6 bother you.

7 BY MR. HOLT:

8 Q. Focusing your attention to the second
9 phrase of that, which states: I was informed by
10 representatives of both companies that they were
11 still willing to negotiate an agreement to make
12 their respective properties available as sites for
13 LPTV stations; would you please state for the
14 record your recollection, if any, to the accuracy
15 of that statement?

16 A. I absolutely -- I have no recall as to
17 this type of conversation.

18 Q. Would you focus on the final sentence
19 of what I have just read, which begins: I
20 generally discussed possible lease terms with both
21 individuals?

22 And please state your reaction, if any,
23 for the record as to the accuracy of that
24 statement?

25 A. I have no recall of making that

1 comment.

2 Q. No, I'm sorry, this is a statement that
3 was made by David A. Gardner. Would you state your
4 reaction to the statement as to whether it's
5 accurate or not?

6 A. I have no lease terms. I have no
7 lease. I did not negotiate an agreement. I don't
8 know what else you want me to say. I'm missing the
9 question.

10 Q. Well, a statement was made by David
11 Gardner as indicated by the fact that this is a
12 declaration in which he stated: I generally
13 discussed possible lease terms with both
14 individuals.

15 And I am asking for your reaction as to
16 the accuracy of that statement.

17 A. The statement is taken out of the
18 context of time. Okay, I have told everyone in
19 this room, the initial contact with me, whether by
20 phone or in person, I told them we would be
21 interested in the possible negotiation of placing
22 some kind of antenna, satellite dish, etc., on the
23 roof of the Lebanon Valley Quality Inn.

24 However, they had to test it, check it,
25 make sure it would hold the weight -- this, that,

1 the height.

2 My recall is that I signed a letter of
3 intent. Nothing was ever discussed by me.

4 My recall is that nothing was ever
5 discussed by me concerning the specifics of any
6 type of future agreement.

7 Furthermore, without having
8 specifications in front of me, how could I go into
9 negotiations as far as trying to finalize these
10 arrangements?

11 Does that answer the question?

12 Q. I think it does. I just have a couple
13 more questions for you.

14 Going back to the initial contact that
15 you spoke about that occurred in 1989, do you
16 recall at the time of that contact whether there
17 was another antenna on the roof of the hotel?

18 A. Yes.

19 Q. And what was the size of that other
20 antenna, if you recall?

21 A. My recollection is it's still there.
22 It's a small whip antenna.

23 Q. Did you discuss with the person that
24 you spoke with back in 1989 whether the structure
25 that he was proposing to put on the roof would be

1 comparable in size to the antenna that was on your
2 roof at that time?

3 A. I discussed -- I remember discussing
4 the possible interference in reception of that
5 antenna.

6 We didn't get into -- I don't recall
7 getting into the exact height in relation to that
8 antenna.

9 But I remember I was left with the
10 impression that it would be something that would
11 not -- Unobtrusive. It would not be aesthetically
12 degrading to the property. I made that very well
13 known.

14 And, as I stated to you, when I got a
15 copy of the antenna as presented to me, I almost
16 fell over.

17 That was not the description I was
18 given during the initial contact.

19 Q. Do you recall whether you discussed
20 with the person you spoke with whether the proposed
21 antenna would pose any radiation hazard?

22 A. I don't recall discussing radiation. I
23 was just concerned about disrupting the reception
24 of the existing antenna.

25 Plus I want to add at this point, and I

1 think I said it earlier -- perhaps I didn't: Any
2 final negotiations of this magnitude, our attorney
3 would have been brought in, as he will validate.

4 Contracts of this caliber would be run
5 through the attorney to draw it up from A to Z.

6 It would have to be, first of all,
7 presented to the board of directors and okayed by
8 the board of directors.

9 As I stated at this meeting: Did I
10 ever bring this up to the board? The answer is:
11 No.

12 It was too tentative. I didn't have
13 sufficient information. I didn't have diagrams,
14 schematics, nothing.

15 So it was so tentative that I thought
16 this thing went south. I thought it was done. I'm
17 shocked this is still alive.

18 Meaning I thought it died as a project.

19 Q. At any time after the initial contact
20 with the individual you spoke with in 1989, were
21 you ever provided with a written copy of this
22 sketch that you have referred to earlier?

23 A. No.

24 Q. At any time after that visit, that
25 contact, were you ever provided with an oral

1 description of the structure depicted in the
2 sketch?

3 A. To the best of my knowledge, no.
4 Definitely not.

5 Q. At any time after the contact, were you
6 ever provided with any information about the size
7 or weight of the structure depicted in the sketch?

8 A. No, not to my knowledge.

9 Again, I make the statement, when I saw
10 the sketch you presented to me, I went into shock.

11 Had I known previous to the literature
12 you sent me in the mail about the height, weight,
13 size, or anything related to the nature of this
14 particular antenna, why would I have gone into
15 shock?

16 Q. Well, you have referred earlier to the
17 letter of intent.

18 In light of what you have seen in the
19 antenna sketch, would you have signed the letter of
20 intent that you referred to?

21 A. No.

22 Q. Who, to your knowledge, during the
23 period, July, 1990, through December, 1991, had any
24 information about your previous contact with the
25 individual who called you about the LPTV site?

1 A. Don Yordy and my administrative
2 assistant at that time, who I don't know who -- I
3 would have to look in the personnel records. I
4 don't know who that was.

5 Q. The administrative assistant?

6 A. My secretary.

7 Q. But focusing on the period, July, 1990
8 through December, 1991, do you recall whether you
9 had the same administrative assistant that you had
10 in 1989?

11 A. I don't recall that.

12 Q. You don't recall if there is -- When
13 you were initially contacted about the LPTV site in
14 1989, you had an administrative assistant, correct?

15 A. I have had one ever since I have been
16 there, yes.

17 Q. And you don't recall whether that was
18 the same person who was there?

19 A. (Indicates no.)

20 Q. If anyone else at the hotel, any of
21 your department heads had received a call on the
22 matter involving LPTV stations and possible use of
23 the hotel as a site, what, if anything -- Let me
24 rephrase.

25 Does the hotel have any policy about

1 referring matters to you that -- If one of your
2 department heads receives a call or communication
3 of any sort regarding a matter with which they are
4 unfamiliar, what, if anything, is the hotel's
5 policy as to how that individual should handle that
6 contact?

7 A. Simple: They refer it to the manager.

8 Q. And the manager is --

9 A. Barry L. March.

10 Q. And those are standard instructions?

11 A. Yes.

12 Q. I want to apply that question, the same
13 question, to the officer of the Quality Inn who
14 maintains offices at the hotel.

15 If any of those individuals had
16 received a call concerning a matter involving LPTV
17 facilities --

18 A. Let me make that easy for you. There
19 was a retirement of one of our officers who worked
20 out of her home entirely.

21 The new person that took it over moved
22 the file cabinets into this -- I described where on
23 the hotel property. I think he was there one day
24 or maybe several hours at a desk, and from that
25 time period he has been working out of his home.

1 A. So the likelihood of an officer
2 answering the phone on business is so remote, you
3 know. It's hardly worth thinking of questioning.

4 Q. Do you recall when that transition
5 occurred?

6 A. Fox retired about two years ago.

7 MR. KRAUSE: About a year ago.

8 THE WITNESS: Maybe about a year ago,
9 about a year.

10 Plus Mr. Hill, who is the secretary-
11 treasurer, would have either referred the call to
12 me or taken a message and turned it over to me.

13 He would not have handled and conducted
14 any business transaction of this nature, or
15 conversation of this nature, without coming
16 immediately to me and sharing it.

17 MR. HOLT: I have no further questions.
18 Thank you.

19 MR. SHOOK: I have a few.

20 EXAMINATION

21 BY MR. SHOOK:

22 Q. With respect to the letter of intent
23 that has been referred to in a number of your
24 responses, could you describe for us what that
25 letter of intent is?

1 A. You do not have a copy?

2 Q. I, personally, do not.

3 A. Okay. The letter of intent is a letter

4 that, basically, has information in it.

5 There is one line checked with an X,

6 and it simply says it on the top: Letter of

7 intent.

8 And it is very -- It's going to be

9 admitted, isn't it? I mean I'm not a lawyer.

10 I won't look at it that way. My

11 signature is affixed to the bottom. It says: See

12 top letter of intent, and it has an X on one of the

13 lines, one of the multiple lines that go across.

14 It has a height of building as far as

15 above sea level, how high we are above sea level.

16 It has base, thirty feet, period, as

17 far as the dimension and things, basically that.

18 That's the stuff that's on there.

19 It does not have the height of the

20 antenna or how many antennas, to my knowledge, from

21 reading it, my recall.

22 Very vague in nature. It does have as

23 far as dollars, five hundred dollars a month,

24 period.

25 Q. This was a document that you prepared

1 and sent to someone?

2 A. No, sir.

3 Q. Can you tell me then, was this a letter
4 that was sent to you?

5 A. Yes.

6 Q. And did you check and sign?

7 A. I didn't check anything, sir.

8 Q. You just signed your name?

9 A. Yes.

10 Q. This letter came from Raystay to you?

11 A. To the best of my knowledge, yes.

12 Q. With respect to the antenna that you
13 have referred to that's presently on the roof of
14 the hotel, is that the only antenna up there?

15 A. To the best of my knowledge, yes.

16 Q. And is that the only antenna that has
17 been up there for the past five years?

18 A. It was there before I came on June 3rd,
19 1985. *Installed May 1988 per Contract. (Approximate date)*

20 Q. Could you tell us what this antenna is
21 for?

22 A. I believe it's an antenna for the cable
23 TV. I'm not sure. I wanted to check that before I
24 came. I don't recall, but I think that's what it's
25 for.

1 Q. Your understanding is that it's the
2 antenna to receive signals? In other words, for
3 there to be some kind of television service in the
4 hotel, that that's what this antenna is there for?

5 A. Excuse me, correction. It just came to
6 my memory. I rent that space.

7 Q. You, personally, rent that space?

8 A. The Lebanon Valley Quality Inn rents
9 space to a company that gives us a monthly
10 installment for that space on a rental basis.

11 Q. So there is a lease agreement
12 concerning this antenna, and the hotel receives a
13 certain amount of money each month?

14 A. That's correct.

15 A. It's a very small antenna. To the best
16 of my knowledge I don't even think you can see it
17 from ground level. It's a whip antenna. It's
18 single. It's thin.

19 Q. Do you recall there being any
20 discussions with anyone as to what would happen to
21 that antenna and/or the lease that concerns that
22 antenna in the event an LPTV site was placed at
23 your hotel?

24 A. Yes. As I stated earlier, I
25 acknowledged there was an antenna up there.

1 As I stated earlier, I was concerned
2 about the proposed antennas interfering with the
3 reception of the existing antenna. I remember that
4 vividly.

5 Q. That's a conversation that you would
6 have had with the Raystay representative?

7 A. Initial contact, yes.

8 MR. SHOOK: No further questions.

9 MR. COHEN: Thank you, Mr. March. Can
10 we go off the record?

11 (Whereupon, there was a discussion off
12 the record.)

13 (Whereupon, at or about 12:50 p.m., the
14 deposition was concluded.)

1
2 REPORTER'S CERTIFICATE
3
4

5 I HEREBY CERTIFY that I was present
6 upon the hearing of the above-entitled matter and
7 there reported stenographically the proceedings
8 had and the testimony produced; and I further
9 certify that the foregoing is a true and correct
10 transcript of my said stenographic notes.
11
12
13
14
15

16 Alfred W. Kershaw

17 ALFRED W. KERSHAW, RPR

18 Official Court Reporter
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that I have read the foregoing deposition given by me on September 10, 1993, and I certify it to be a true and correct transcript of my said deposition. In the event that I desire to make changes in the form or substance of my deposition, said changes will be listed below along with my reasons for making them.

6 23 Incomplete Corporate Name.
115 19 checked date installed on contract.

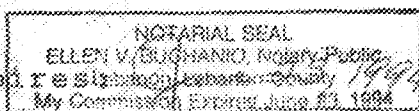
Barnes March

Sworn and subscribed to before

me this 11th day of October, A.D., 1993.

Ellen V. Buchanan

My Commission Exp



STATE OF PENNSYLVANIA,
COUNTY OF LEBANON

ss:

Anita B. Haulman

Prothonotary of the Court of

Common Pleas, in and for said County (said Court being a Court of Record).

DO HEREBY CERTIFY THAT Nancy L. Starnes

whose name is subscribed to the certificate of proof, or acknowledgment of
the annexed instrument, and thereon written, was at the time of such proof or

acknowledgment, a Notary Public, in and for said County of
Lebanon, dwelling in said County, commissioned and sworn and duly authorized to take same. And
further that I am well acquainted with the hand-writing of such Notary Public,
and verily believe the signature of said Certificate is genuine, and that the said instrument is executed
and acknowledged according to the laws of the State of Pennsylvania. No seal required to be filed in
this Office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said County and
Court this 6th. day of August A. D. 18 93

Anita B. Haulman, Prothonotary
Per Robert H. Haulman, Deputy

SUBPOENAS/WITNESS CHECK#8039

No. MM 93-75

Lebanon, PA, August 6, 1993

IN RE: TRINITY BROADCASTING
of FLORIDA, INC., et al

vs.

BARRY L. MARCH

LEWIS I. COHEN
Cohen and Berfield, P.C.
Board of Trade Building
1129 20th Street, N.W.
Washington, D.C. 20036

STATE OF PENNSYLVANIA }
COUNTY OF LEBANON } SS:

00005976

Michael J. DeLeo, Sheriff, being duly sworn according to law, deposes and says that he served the within SUBPOENA/WITNESS CHECK #8039 upon BARRY L. MARCH, the within named, by handing a true and attested copy thereof, personally to Melissa McBride, Administrative Secretary at his place of employment, Quality Inn, 625 Quentin Road, Lebanon (City), Lebanon County, Pennsylvania, on August 6, 1993, at 12:00 o'clock P.M., and by making known to her the contents of the same.

Sworn to and subscribed before me

this 6th day of August, A.D., 1993

SO ANSWERS

Michael J. DeLeo
SHERIFF

Nancy L. Starnes Notary Public

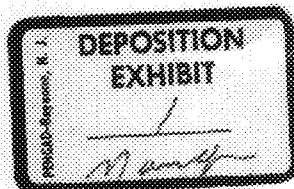
NOTARIAL SEAL
NANCY L. STARNES, Notary Public
Lebanon, Lebanon County, Pa.
My Commission Expires August 8, 1994

SHERIFF'S COSTS IN ABOVE PROCEEDINGS

Advanced costs paid on 8/04/93	Check No. 8038	Amount	45.00
Costs incurred:		Amount	19.20
Refund: Check No. 3991		Amount	25.80

All Sheriff's Costs shall be due and payable when services are performed, and it shall be lawful for him to demand and receive from the party instituting the proceedings, or any party liable for the costs thereof, all unpaid sheriff's fees on the same before he shall be obligated by law to make return thereof.

___ Sec. 2, Act of June 20, 1911, P.L. 1072



SUBPOENA

ORIGINAL - To be executed by the person who effects service and returned to the Secretary of the Commission.

UNITED STATES OF AMERICA

FEDERAL COMMUNICATIONS COMMISSION

IN THE MATTER OF

TRINITY BROADCASTING OF FLORIDA

INC., et al.

Docket No. MM 93-75

THE PRESIDENT OF THE UNITED STATES OF AMERICA

To Barry L. March GREETINGS:

YOU ARE HEREBY ORDERED under penalty of law to appear before the Federal Communications Commission or
Office of the Official Court Reporter at 50 N. Duke Street, Hearing Room 221
(Name and official title of person authorized to take depositions)

in the city of Lancaster, PA on the 10th day of September, 1993

at 10 o'clock A. M., of that day, to testify in the above-captioned matter and to bring with you and to

produce then and there the following books, papers, and documents: All books, papers, records and

documents pertaining to or relating to the affidavit dated May 7, 1993

subscribed to by Barry L. March and submitted to the Federal

Communications Commission.

BY ORDER OF THE FEDERAL COMMUNICATIONS COMMISSION, this 2nd day of

AUGUST

1993

Joseph Chachkin, Administrative Law
Judge, Federal Communications Commission

(Official Title)

Joseph Chachkin

NOTICE: - Witness fees and mileage for attendance under this subpoena for service hereof are to be paid by the party at whose instance the witness is subpoenaed, and every copy of this summons for the witness must contain a copy of this notice.

Service of subpoenas may be made by any citizen of the United States over the age of 18 years who is competent to be a witness, and is not a party to or in any way interested in the proceeding.

PROOF OF SERVICE ON REVERSE SIDE.

FCC Form 766
October 1985

PROOF OF SERVICE

State of Pennsylvania)
County of Lebanon) ss:

Michael J. DeLeo, Sheriff

, being first duly sworn, says:

I am a citizen of the United States of America, over the age of eighteen years, and not a party to or in any way interested in the proceeding in which this subpoena was issued.

On the 6th day of August, A.D., 19 93, I served the within subpoena on the witness named therein at the address shown, by -- (Check method used.)

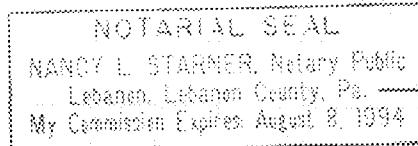
☐ (1) Delivering to and leaving with the witness personally a copy of said subpoena and at the same time exhibiting to said witness this original,

☒ (2) Unable to effect service in the manner specified in the immediately preceding section by leaving a copy at the principal office or place of business of the witness, to wit:

Served a true and attested copy thereof and Witness Ck#8039 to
Melissa McBride, Administrative Secretary at the Quality Inn, 625
Quentin Road, Lebanon (City), Lebanon County, Pennsylvania, and made
known to her the contents of the same.

on the 6th day of August, A.D., 19 93.

Subscribed and sworn to me before this 6th day of August, A.D., 19 93.



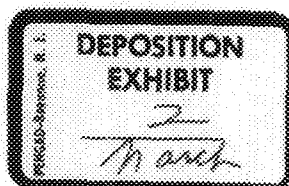
Nancy L. Starnes
NOTARY PUBLIC

I certify that the person named herein was in attendance as a witness at _____

on _____
(DAY, MONTH, AND YEAR)

(NAME OF PERSON CERTIFYING)

OFFICIAL TITLE



AFFIDAVIT OF BARRY L. MARCH

I, Barry L. March, hereby declare as follows:

1. Since June 3, 1985, I have been employed as General Manager of the Quality Inn Hotel, 625 Quentin Road, Lebanon, Pennsylvania (hereinafter the "Hotel"). Since 1988, I also have been a member of the Board of Directors of Greater Lebanon Hotel Enterprises, Inc., which is the corporate franchisee of the Hotel. As reflected in the documents attached to this Affidavit as Appendix A, I am the person identified in the Federal Communications Commission ("FCC") applications of the Raystay Company ("Raystay") for authority to construct low power television stations on Channels 38 and 55 in Lebanon, Pennsylvania.

2. To the best of my recollection, sometime in early 1989 I was contacted either by telephone or in person, I cannot recall which, by an individual who expressed an interest in placing a small broadcast antenna on the roof of the Hotel. The caller (or visitor), whose name I cannot recall, explained that a survey had been conducted of the Lebanon Valley area and that the roof of the Hotel appeared to be one of the highest points in the area. He noted that a small antenna was already located on the roof and he asked whether the Hotel might be interested in renting out space for a second antenna. The caller led me to believe that he was talking about a thin, whip-like antenna or

some sort of small dish that would not be readily noticeable to our patrons.

3. Based on this impression, I told the caller that the Hotel might be interested in negotiating a lease, but that he should contact me again when he was ready to discuss terms. To the best of my knowledge, we did not discuss the prospective terms under which such a lease might be negotiated, nor did we discuss the specifics of his proposal for the antenna. I recall that, toward the end of the conversation, I gave him permission to inspect the roof to determine whether it would suit his needs. To the best of my recollection, the entire conversation lasted no more than a few minutes. During that time, I expressed nothing more than general interest in his vague proposal.

4. I believe that shortly after our conversation, either the caller or someone on his behalf visited the Hotel to examine the roof.

5. I recently have been shown the engineering sketch attached to this Affidavit as Appendix B. I understand that Raystay submitted this sketch to the FCC in applications it filed in March 1989 for two low power television station licenses. In reviewing the sketch, I can state with certainty that I did not tell the caller with whom I spoke in early 1989 that the Hotel would consider leasing roof space for a structure